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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,113	01/07/2004	Francisco J. Napolez	2973-A-34	5216
7590 01/11/2006 Cahill, von Hellens & Glazer P.L.C. 2141 East Highland Avenue, 155 Park One Phoenix, AZ 85016			EXAMINER HAYES, BRET C	
			ART UNIT 3641	PAPER NUMBER
DATE MAILED: 01/11/2006				

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/753,113
Filing Date: January 07, 2004
Appellant(s): NAPOLEZ ET AL.

Wm. C. Cahill
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10 NOV 05 appealing from the Office action mailed
04 MAY 05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(10) Response to Argument

In response to Applicants' argument that the examiner's position regarding the electrodes being contact with the dog's skin is in error, examiner will attempt to clarify. Perhaps, the term 'irrelevant' was misinterpreted. Examiner did not mean that the electrodes being in contact with the dog's skin to be irrelevant. Rather, the examiner asserted that "whether the electrodes are *disclosed* as being in contact with the dog's skin or *is irrelevant*," which, as it turns out, is moot because such is disclosed, as at col. 3, line 58, which states, "Stimulation electrodes 13 provide electrical paths to dog's 12 skin." It cannot be any plainer that Hollis thus anticipates the claimed limitation of electrodes being in contact with the dog's skin via electrical paths.

In response to the Applicants' argument that the examiner errs in understanding the vibration sensor, examiner disagrees. As set forth in previous responses to arguments, in response to the argument that Applicants' vibration sensor is insensitive to air-borne pressure variations, examiner argues against two ways.

First, while that may be true and may further aid in patentably distinguishing the claimed invention from the prior art of record, *such is not claimed*. And a microphone, as disclosed by Hollis is, reasserted here by examiner, a vibration sensor. For clarity, examiner will attempt to elucidate. According to Wikipidea.org, "In all microphones, sound waves (sound pressure) are translated into mechanical vibrations in a thin, flexible diaphragm. These sound vibrations are then converted by various methods into an electrical signal which varies in voltage amplitude and frequency in an analog of the original sound. For this reason, a microphone is an acoustic

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wave to voltage modulation transducer.” Any microphone sensing these sound waves, then, is a vibration sensor *as claimed*.

Second, if a dog were barking loudly and closely enough to a dog wearing the claimed invention, it is questionable whether the device would not ‘sense’ sympathetic vibrations occurring in the dog wearing the device—in much the same way that eardrums sense sound by sympathetic vibration, a dog’s anatomy, say its throat, can be caused to vibrate, given enough vibratory stimulus. It is not clear how the claimed sensor would distinguish from such.

Regardless of the above, the simple fact of the matter is that a microphone as disclosed by Hollis is a vibration sensor *as claimed*. Whether Applicants’ sensor is insensitive to air-borne vibration or not is moot, because such is not claimed.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.


For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

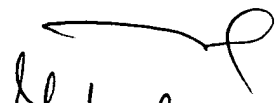
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Conferees:

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